



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201318033

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

FEB 07 2013

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UIL: 401.06-00; 408.06-00

T:EP:RA:1T3

Legend:

Taxpayer A = XXXXXXXXXXXXXXXXXXXX
Taxpayer B = XXXXXXXXXXXXXXXXXXXX
Taxpayer C = XXXXXXXXXXXXXXXXXXXX
Taxpayer D = XXXXXXXXXXXXXXXXXXXX
Decedent E = XXXXXXXXXXXXXXXXXXXX
Administrator F = XXXXXXXXXXXXXXXXXXXX
IRA X = XXXXXXXXXXXXXXXXXXXX

Amount Y = XXXXXXXXXXXXXXXXXXXX
Amount Z = XXXXXXXXXXXXXXXXXXXX

Dear xxxxxxxxx:

This is in response to your request, dated July 14, 2011, as supplemented by correspondence dated September 13, 2011, December 7, 2011, and January 18, 2013, submitted on your behalf by your authorized representative, in which you request rulings under sections 401(a)(9) and 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of the rulings requested.

Decedent E died testate on November 1, 2010, after having attained her required beginning date (as defined in section 401(a)(9)(C) of the Code) At the date of her death, Decedent E was the owner of an individual retirement account, IRA X, which, at

the time of her death, had a value of Amount Z, and which as of December 31, 2012, had a value of Amount Y. Administrator F was appointed administrator of Decedent E's estate under applicable State law.

Decedent E did not name a beneficiary of IRA X. Thus, Decedent E's estate is the sole beneficiary thereof. In accordance with Decedent E's Last Will and Testament, Administrator F and Taxpayers B, C and D (such individuals hereinafter referred to individually as Beneficiary, and collectively as Beneficiaries) are entitled to equal one-fourth shares of IRA X as beneficiaries of Decedent E's estate. None of the Beneficiaries is a surviving spouse of Decedent E.

Administrator F intends to divide IRA X into four equal shares, one for each of the Beneficiaries. This will be accomplished by dividing IRA X by means of a series of trustee-to-trustee transfers into four distinct sub-IRAs, each intended to be established as an inherited IRA. Each sub-IRA is titled in a manner that indicates it is Decedent E's IRA for the benefit of (f/b/o) a specified Beneficiary. Each of the sub-IRAs will receive a pro-rata share of all earnings and interest of IRA X, which is allocated in a reasonable and consistent manner, and calculated up to the date of the transfer.

Minimum required distributions, within the meaning of section 401(a)(9) of the Code, have and will continue to be made from IRA X for each year up through the year in which the trustee-to-trustee transfers are made to the four distinct sub-IRAs. Thereafter, each of the four sub-IRAs will make distributions intended to meet the minimum required distribution requirements of section 401(a)(9) of the Code based on Decedent E's remaining life expectancy.

Based on the above facts and representations, you requested the following rulings:

- (1) Each Beneficiary's one-fourth interest in IRA X can be segregated and held in a separate inherited sub-IRA for purposes of determining the minimum required distribution under section 401(a)(9) of the Code.
- (2) Each of the sub-IRAs created by means of the trustee-to-trustee transfers, each of which will be titled Decedent E (deceased) IRA f/b/o a specified Beneficiary, constitutes an inherited IRA under section 408(d)(3) of the Code.
- (3) The minimum required distribution requirement under section 401(a)(9) of the Code with respect to each distinct sub-IRA may be met by distributing amounts annually from such sub-IRA calculated using Decedent E's remaining life expectancy using the age of Decedent E as of her birthday in the calendar year of her death, reduced by one for each subsequent calendar year in accordance with section 1.401(a)(9)-5, Q&A-5, of the Income Tax Regulations (Regulations).
- (4) The transfer of each Beneficiary's one-fourth interest in IRA X to the corresponding sub-IRA in Decedent E's name for the benefit of such Beneficiary will not constitute a distribution within the meaning of section

408(d)(1) of the Code, nor will it be considered an attempted rollover from IRA X to the sub-IRA.

Sections 408(a)(6) and 401(a)(9) of the Code, and the regulations promulgated thereunder, mandate that certain minimum required distributions be made from a traditional individual retirement account (IRA) if the IRA holder (hereinafter referred to as a participant) has attained her required beginning date (as defined in section 401(a)(9)(C) of the Code).

Section 401(a)(9)(B)(i) of the Code and section 1.401(a)(9)-2, Q&A-5 of the Regulations provides that, if a participant dies after distributions under section 401(a)(9) of the Code have begun, but before the entire benefit has been distributed, then the remaining portion of the benefit must be distributed to the participant's beneficiary at least as rapidly as under the method of distribution being used as of the date of the participant's death.

Section 401(a)(9)(C)(ii) of the Code and section 1.401(a)(9)-2, Q&A-2(b), of the Regulations, provide that a participant's required beginning date, for purposes of receiving minimum required distributions under section 401(a)(9), is April 1 of the calendar year following the calendar in which he or she attains age 70½.

Section 408(d)(1) of the Code generally provides that, in accordance with the rules of section 72 of the Code, amounts paid or distributed from an IRA are included in the gross income of the payee or distributee.

Section 408(d)(3)(C) of the Code generally prohibits a tax-free rollover from an inherited IRA to the IRA of a non-spouse beneficiary. Under section 408(d)(3)(C)(ii) of the Code, an IRA is treated as inherited if the individual for whose benefit the account is maintained acquired the account by reason of the death of another individual.

Section 1.401(a)(9)-4, Q&A 1, of the Regulations provides that a designated beneficiary is an individual who is designated as a beneficiary under the plan. Section 1.401(a)(9)-4, Q&A-3, of the Regulations clarifies that only individuals may be designated beneficiaries. According to that Regulation, a person that is not an individual, such as a participant's estate, may not be a designated beneficiary. Furthermore, section 1.401(a)(9)-4, Q&A-4, of the Regulations states that in order to be a designated beneficiary, an individual must be a beneficiary as of the date of death.

Section 1.401(a)(9)-5, Q&A-5, of the Regulations states the manner in which minimum required distributions under section 401(a)(9) of the Code must be calculated if an IRA participant dies without a designated beneficiary after her required beginning date (as defined in section 401(a)(9)(C) of the Code). Under section 1.401(a)(9)-5, Q&A-5(a) and (c), of the Regulations, the applicable distribution period for purposes of calculating such minimum required distributions for distribution calendar years after the distribution calendar year containing the participant's death is the participant's remaining life expectancy using her age as of her birthday in the calendar year of her death. Section

1.401(a)(9)-5, Q&A-5(c), of the Regulations further states that in subsequent calendar years the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of the participant's death.

For purposes of applying the minimum required distribution requirements of sections 408(a)(6) and 401(a)(9) of the Code, section 1.401(a)(9)-8, Q&A-2(a)(2), of the Regulations allows the interests of distinct beneficiaries in the account of a deceased participant to be divided into separate, segregated accounts. Section 1.401(a)(9)-8, Q&A-3, of the Regulations provides that, under such circumstances, all post-death investment gains and losses for the period prior to the establishment of such separate accounts must be allocated on a pro-rata basis in a reasonable and consistent manner among the separate accounts.

Revenue Ruling 78-406, 1978-2 C.B. 157, states that the direct transfer of funds from one IRA trustee to another does not result in a payment or distribution of the funds for purposes of section 408(d)(1) of the Code. The Revenue Ruling also says this conclusion applies regardless of whether the bank trustee initiates such a transfer or the participant directs it. Revenue Ruling 78-406 further provides that a transfer from one IRA bank trustee to another, even if directed by the participant, is not a rollover contribution to the recipient IRA for purposes of section 408(d)(3) of the Code because the funds are not within the direct control and use of the participant.

According to the facts represented herein, each of the sub-IRAs will represent a distinct beneficiary's interest in IRA X. Administrator F has also represented that all of the investment gains and losses of IRA X for the period prior to the asset transfers to each sub-IRA will be allocated on a pro-rata basis among the sub-IRAs in a reasonable and consistent manner. Accordingly, pursuant to section 1.401(a)(9)-8, Q&A-2(a)(2) and (3), of the Regulations, each of the sub-IRAs may be considered separately, and need not be aggregated with the other sub-IRAs, for purposes of applying the minimum required distribution requirements of sections 408(a)(6) and 401(a)(9) of the Code.

As stated above, pursuant to the facts represented herein, each of the sub-IRAs represents a distinct Beneficiary's interest in IRA X. Therefore, each of the sub-IRAs is being maintained for the benefit of one of the Beneficiaries, each of whom acquired such sub-IRA by reason of the death of Decedent E. Consequently, pursuant to section 408(d)(3)(C)(ii) of the Code, each of the sub-IRAs is an inherited IRA.

Under the facts represented herein, Decedent E did not name a beneficiary of IRA X. Therefore, pursuant to section 1.401(a)(9)-4, Q&A-1, of the Regulations, the Beneficiaries are not designated beneficiaries for purposes of section 401(a)(9) of the Code.

Furthermore, the represented facts reflect that Decedent E died after her required beginning date (as defined in section 401(a)(9)(C) of the Code). Therefore, pursuant to section 1.401(a)(9)-5, Q&A-5(a) and (c), of the Regulations, the applicable distribution period for purposes of calculating minimum required distributions under section

401(a)(9) of the Code for each of the sub-IRAs is measured by Decedent E's remaining life expectancy using her age as of her birthday in the calendar year of her death. In subsequent calendar years, as stated in section 1.401(a)(9)-5, Q&A-5(c), of the Regulations, the applicable distribution period is reduced by one for each calendar year that has elapsed after the calendar year of Decedent E's death.

The holding of Revenue Ruling 78-406 would apply to the facts represented herein because each sub-IRA is set up and maintained in the name of Decedent E for the benefit of a specified Beneficiary. But for the asset transfers to the sub-IRAs, after Decedent E's death and until such time as distributions would have been made to the Beneficiaries, IRA X would have been held in Decedent's name for the benefit of the Beneficiaries. Consequently, the Beneficiaries have no greater direct control or use of the IRA X funds as a result of the trustee-to-trustee transfers from IRA X to the sub-IRAs.

Therefore, with respect to the rulings requested, we conclude:

- (1) Each Beneficiary's one-fourth interest in IRA X can be segregated and held in a separate inherited sub-IRA for purposes of determining the minimum required distribution under section 401(a)(9) of the Code.
- (2) Each sub-IRA created by means of the trustee-to-trustee transfer, which will be titled Decedent E (deceased) IRA f/b/o a specified Beneficiary, constitutes an inherited IRA under section 408(d)(3) of the Code.
- (3) The minimum required distribution requirement under section 401(a)(9) of the Code with respect to each distinct sub-IRA may be met by distributing amounts annually from such sub-IRA calculated using Decedent E's remaining life expectancy as of Decedent E's birthday in the calendar year of her death, reduced by one for each subsequent calendar year in accordance with section 1.401(a)(9)-5, Q&A-5, of the Regulations.
- (4) The transfer of each Beneficiary's one-fourth interest in IRA X to a sub-IRA in Decedent's name for the benefit of such Beneficiary will not constitute a distribution within the meaning of section 408(d)(1) of the Code, nor will it be considered an attempted rollover from IRA X to the distinct sub-IRA.

This ruling assumes the above IRAs satisfy the requirements of section 408 of the Code at all relevant times.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.


Pursuant to the power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

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Your ruling request included a user fee of \$ [REDACTED] which you paid to our Chief Counsel's office. The applicable user fee for rulings issued by the Employee Plans Division is \$ [REDACTED]. Accordingly, a refund of \$ [REDACTED] will be issued by the Chief Counsel's office under separate cover.

If you wish to inquire about this ruling, please contact XXXXXXXXXXXXXXXX, I.D. # XXXXXXXX, at (xxx) xxx-xxxx. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely,


 Laura B. Warshawsky, Manager
 Employee Plans Technical Group 3

Enclosures:
 Deleted copy of ruling letter
 Notice of Intention to Disclose

CC: XXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXX
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